

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Blake McGory, et al.,

Case No. 3:24-cv-567

Plaintiffs,

v.

ORDER

City of Sandusky, Ohio,

Defendant.

Defendant removed this action from the Erie County, Ohio Court of Common Pleas on March 27, 2024. (Doc. No. 1). After the case was removed, Plaintiffs filed a Second Amended Complaint. (Doc. No. 4). Defendant filed an Answer to this Second Amended Complaint on April 16, 2024. (Doc. No. 8). Within the Answer, Defendant adds a postscript motion to dismiss, arguing Plaintiffs' Second Amended Complaint should not be considered because they did not first seek leave under Rule 15 of the Federal Rules of Civil Procedure.

In accordance with the requirement of Rule 15 that leave to amend be "freely give[n]," Fed. R. Civ. P. 15(a)(2), it is the custom of this Court to be liberal in permitting a plaintiff to amend the complaint after an action has been removed from state court.

While it would have been the better practice for Plaintiffs to first seek leave to amend, I do not find the failure to do so alone to be grounds for dismissal at this juncture. Therefore, I deny Defendant's motion to dismiss the Second Amended Complaint, (Doc. No. 8), and deny as moot Plaintiffs' motion for leave to file that Second Amended Complaint. (Doc. No. 10). The operative pleadings in this action are now Plaintiffs' Second Amended Complaint and Defendant's Answer to it. (Doc. Nos. 4 and 8).

With that, I affirm my previous Order requiring Defendant to file any opposition to Plaintiffs' motion for class certification by May 7, 2024, and Plaintiffs to file any reply no later than May 21, 2024.

So Ordered.

s/ Jeffrey J. Helmick  
United States District Judge